

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

GEORGE WYATT Jr.
(Dallas County # 12081877)

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VS.

CIVIL NO. 4:13-CV-177-Y(BJ)

DALLAS COUNTY
SHERIFF'S DEPARTMENT, et al.

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FINDINGS, CONCLUSIONS AND RECOMMENDATION OF THE
UNITED STATES MAGISTRATE JUDGE AND NOTICE AND ORDER

In this case, Dallas County jail inmate/plaintiff George Wyatt Jr. filed a new civil case, now accompanied by a motion for leave to proceed *in forma pauperis*. Resolution of the motion was referred to the United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b). The findings, conclusions and recommendation of the United States Magistrate Judge are as follows:

FINDINGS AND CONCLUSIONS:

A. NATURE OF THE CASE

This case is a new civil action.

B. PARTIES

George Wyatt Jr. is the plaintiff. He has named as defendants Parkland Hospital, Dallas County municipal offices, and two individual defendants.

C. LEGAL ANALYSIS

This civil action was initiated by the filing of a civil complaint by inmate George Wyatt Jr.. Although Plaintiff Wyatt has filed a motion for leave to proceed *in forma pauperis*, Court

records reveal, that, as a result of previously filing frivolous suits, he is barred from proceeding under 28 U.S.C. § 1915 in any civil action or appeal filed while he is incarcerated or detained unless he is under imminent danger of serious physical injury.¹ Wyatt obtained the qualifying dismissals in this the United States District Court for the Northern District of Texas.² In this case, Wyatt has not set forth grounds for leave to file in compliance with 28 U.S.C. § 1915(g). Thus, the undersigned finds that he is not entitled to proceed *in forma pauperis* in this action and, if he wishes to proceed with this suit, he must pay a full filing fee.

RECOMMENDATION

It is therefore RECOMMENDED that George Wyatt Jr. (Dallas County No. 12081877) should not be allowed to proceed *in forma pauperis* in this action and that the motion to proceed *in forma pauperis* be DENIED by the district judge. It is further RECOMMENDED that the district judge inform plaintiff Wyatt that his complaint will be subject to dismissal without further notice under Federal Rule of Civil Procedure 41(b), unless Plaintiff pays to the clerk

¹ As a result of the Prison Litigation Reform Act (PLRA) amendments to 28 U.S.C. 1915, section 1915(g) provides that a prisoner may not proceed *in forma pauperis* in a civil action if, on three or more occasions, the prisoner had a case dismissed as frivolous, malicious, or for failure to state a claim, unless the prisoner is under imminent danger of serious physical injury. 28 U.S.C.A. § 1915(g) (West 2006).

²See *Wyatt v. Stardust Apartment*, No. 4:99-CV-940-Y (N.D. Tex. December 29, 1999) (unpublished); *Wyatt v. Midstate Commissary*, No. 4:99-CV-234-Y (N.D. Tex. September 30, 1999) (unpublished); *Wyatt v. Stardust Apartments, et al.* No. 4:96-CV-817-A (N.D. Tex. December 3, 1996).

of Court the full filing fee of \$350.00 within seven (7) days after the district judge's order.

NOTICE OF RIGHT TO OBJECT TO PROPOSED
FINDINGS, CONCLUSIONS AND RECOMMENDATION
AND CONSEQUENCES OF FAILURE TO OBJECT

A copy of this report and recommendation shall be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 10 days after being served with a copy.

See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The court is extending the deadline within which to file specific written objections to the United States Magistrate Judge's proposed findings, conclusions, and recommendation until April 11, 2012. In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file by the date stated above a specific written objection to a proposed factual finding or legal conclusion will bar a party, except upon grounds of plain error or manifest injustice, from attacking on appeal any such proposed factual finding and legal conclusion if it has been accepted by the United

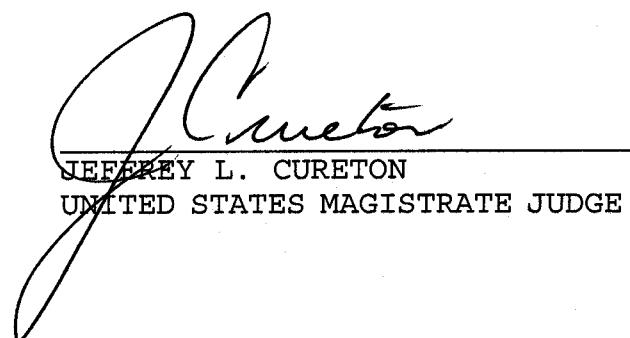
States District Judge. See *Douglass v. United Services Auto Ass'n*, 79 F.3d 1415, 1428-29 (5th Cir. 1996) (en banc).

ORDER

Under 28 U.S.C. § 636, it is ORDERED that Plaintiff is granted until April 11, 2012 to serve and file written objections to the United States Magistrate Judge's proposed findings, conclusions and recommendation.

It is further ORDERED that the above-styled and numbered action, previously referred to the United States Magistrate Judge, be and is hereby, returned to the docket of the United States District Judge.

SIGNED March 21, 2013.



JEFFREY L. CURETON
UNITED STATES MAGISTRATE JUDGE